

**ASSEMBLY BILL**

**No. 280**

**Introduced by Assembly Member Maldonado**

February 5, 2003

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An act to amend Section 3041.5 of the Penal Code, relating to parole hearings.

LEGISLATIVE COUNSEL'S DIGEST

AB 280, as introduced, Maldonado. Imprisonment: parole hearings.

Existing law requires the Board of Prison Terms to review a prisoner's parole suitability after the prisoner has been incarcerated for a certain period. Existing law provides for annual reviews thereafter, except in specified instances.

This bill would provide that, if the board does not set a parole date for a prisoner at its initial parole review meeting, subsequent reviews may take place no more frequently than every 5 years thereafter.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3041.5 of the Penal Code is amended to  
2 read:

3 3041.5. (a) At all hearings for the purpose of reviewing a  
4 prisoner's parole suitability, or the setting, postponing, or  
5 rescinding of parole dates, the following shall apply:

6 (1) At least 10 days prior to any hearing by the Board of Prison  
7 Terms, the prisoner shall be permitted to review ~~his or her~~ the file

1 ~~which~~ regarding his or her case that will be examined by the  
2 board, and shall have the opportunity to enter a written response  
3 to any material contained in the file.

4 (2) The prisoner shall be permitted to be present, to ask and  
5 answer questions, and to speak on his or her own behalf.

6 (3) Unless legal counsel is required by some other provision of  
7 law, a person designated by the Department of Corrections shall  
8 be present to insure that all facts relevant to the decision be  
9 presented, including, if necessary, contradictory assertions as to  
10 matters of fact that have not been resolved by departmental or  
11 other procedures.

12 (4) The prisoner shall be permitted to request and receive a  
13 stenographic record of all proceedings.

14 (5) If the hearing is for the purpose of postponing or rescinding  
15 of parole dates, the prisoner shall have rights set forth in  
16 paragraphs (3) and (4) of subdivision (c) of Section 2932.

17 (b) (1) Within 10 days following any meeting where a parole  
18 date has been set, the board shall send the prisoner a written  
19 statement setting forth his or her parole date, the conditions he or  
20 she must meet in order to be released on the date set, and the  
21 consequences of failure to meet those conditions.

22 (2) Within 20 days following any meeting where a parole date  
23 has not been set for the reasons stated in subdivision (b) of Section  
24 3041, the board shall send the prisoner a written statement setting  
25 forth the reason or reasons for refusal to set a parole date, and  
26 suggest activities in which he or she might participate that will  
27 benefit him or her while he or she is incarcerated.

28 The board shall hear each case ~~annually~~ *no more frequently than*  
29 *every five years* thereafter, ~~except the board may schedule the next~~  
30 ~~hearing no later than the following:~~

31 ~~(A) Two years after any hearing at which parole is denied if the~~  
32 ~~board finds that it is not reasonable to expect that parole would be~~  
33 ~~granted at a hearing during the following year and states the bases~~  
34 ~~for the finding.~~

35 ~~(B) Up to five years after any hearing at which parole is denied~~  
36 ~~if the prisoner has been convicted of murder, and the board finds~~  
37 ~~that it is not reasonable to expect that parole would be granted at~~  
38 ~~a hearing during the following years and states the bases for the~~  
39 ~~finding in writing. If the board defers a hearing five years, the~~  
40 ~~prisoner's central file shall be reviewed by a deputy commissioner~~

1 ~~within three years at which time the deputy commissioner may~~  
2 ~~direct that a hearing be held within one year. The prisoner shall be~~  
3 ~~notified in writing of the deputy commissioner's decision. The~~  
4 ~~board shall adopt procedures that relate to the criteria for setting~~  
5 ~~the hearing between two and five years.~~

6 (3) Within 10 days of any board action resulting in the  
7 postponement of a previously set parole date, the board shall send  
8 the prisoner a written statement setting forth a new date and the  
9 reason or reasons for that action and shall offer the prisoner an  
10 opportunity for review of that action.

11 (4) Within 10 days of any board action resulting in the  
12 rescinding of a previously set parole date, the board shall send the  
13 prisoner a written statement setting forth the reason or reasons for  
14 that action, and shall schedule the prisoner's next hearing within  
15 12 months and in accordance with paragraph (2).

